

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN WARREN,

Petitioner,

v.

Case No. 18-cv-12282
Hon. Matthew F. Leitman

SHERRY BURT,

Respondent.

**ORDER GRANTING PETITIONER'S *EX PARTE* MOTION
FOR REFUND OF CONSOLIDATED APPROPRIATIONS ACT
PAYMENT (ECF No. 19) AND DIRECTING THE CLERK OF
THE COURT TO REFUND \$345.00 TO PETITIONER**

Brian Warren, petitioner, filed an *ex parte* motion asking that the Court refund him money that prison officials incorrectly sent to the Court on his behalf. (*See Mot.*, ECF No. 19). For the reasons that follow, the motion is GRANTED. The Clerk of the Court is directed to refund \$345.00 to petitioner.

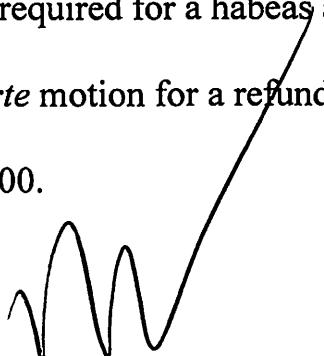
On September 25, 2018, this Court determined that this action should have been docketed as a habeas petition (rather than a prisoner civil rights case, which it originally was). (*See ECF No. 11*). Pertinent to this motion, the Court ordered the Clerk of the Court to recode this case as habeas action and to refund to petitioner any funds received from his prison account. (*See id.*).

On May 28, 2021, petitioner filed a motion for a refund. (*See Mot.*, ECF No. 14.). Petitioner alleged that on May 5, 2021, prison officials sent \$280.00 of his funds to the Court to pay the outstanding of a filing filing fee related to this case. (*See id.*). Petitioner correctly alleged that that he did not owe that amount because, as a habeas action, the filing fee is only \$5.00. (*See id.*). This Court denied the motion without prejudice because petitioner presented insufficient evidence that the Court received a filing fee on his behalf. (*See id.*). The Court indicated that if petitioner obtained evidence that this payment was made, he could re-file his motion. (*See id.*).

In his current motion, petitioner has presented evidence that the Clerk's Office received payments totaling \$350.00 for this case. (ECF No. 19, PageID. 170-71). That amount is far beyond the \$5.00 filing fee required for a habeas action.

Accordingly, the Court grants the *ex parte* motion for a refund. The Clerk of the Court is directed to refund petitioner \$345.00.

IT IS SO ORDERED.



MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: December 14, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 14, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126